



# PUBLIC NOTICE

Federal Communications Commission  
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Washington, D.C. 20554

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DA 04-149  
January 26, 2004

## ENFORCEMENT BUREAU SEEKS COMMENT ON SBC COMMUNICATIONS INC. SECTION 272 BIENNIAL AUDIT REPORT IN EB DOCKET NO. 03-199

### Comments Due: March 26, 2004

Pursuant to section 271 of the Communications Act of 1934, as amended (“Communications Act”),<sup>1</sup> the Commission has authorized SBC Communications Inc. (“SBC”) to enter the in-region interLATA market in Arkansas, California, Illinois, Indiana, Kansas, Michigan, Missouri, Nevada, Ohio, Oklahoma, Texas, and Wisconsin.<sup>2</sup> Section 272 of the Communications Act requires Bell Operating Companies to offer in-region, interLATA service through separate affiliates that comply with certain structural, nondiscrimination, and accounting safeguards. Section 272(d) requires a biennial audit.<sup>3</sup> We have received the results of the biennial audit of SBC’s second and third year of operations in Texas, Kansas, and Oklahoma, and SBC’s first and second year of operations in Arkansas, Missouri, California, and Nevada. The audit report, “SBC

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<sup>1</sup> 47 U.S.C. § 271.

<sup>2</sup> See *Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas*, CC Docket No. 00-65, Memorandum Opinion and Order, 15 FCC Rcd 18354 (2000); *Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, CC Docket No. 00-217, Memorandum Opinion and Order, 16 FCC Rcd 6237 (2001); *Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Arkansas and Missouri*, CC Docket No. 01-194, Memorandum Opinion and Order, 16 FCC Rcd 20719 (2001); *Application by SBC Communications Inc., Pacific Bell Telephone Company, and Southwestern Bell Communications Services, Inc., for Authorization to Provide In-Region, InterLATA Services in California*, WC Docket No. 02-306, Memorandum Opinion and Order, 17 FCC Rcd 25650 (2002); *Application by SBC Communications Inc., Nevada Bell Telephone Company, and Southwestern Bell Communications Services, Inc., for Authorization to Provide In-Region InterLATA Services in Nevada*, WC Docket No. 03-10, Memorandum Opinion and Order, 18 FCC Rcd 7196 (2003); *Application by SBC Communications Inc., Michigan Bell Telephone Company, and Southwestern Bell Communications Services, Inc., for Authorization to Provide In-Region, InterLATA Services in Michigan*, WC Docket No. 03-138, Memorandum Opinion and Order, 18 FCC Rcd 19024 (2003); and *Joint Application by SBC Communications Inc., Illinois Bell Telephone Company, Indiana Bell Telephone Company Incorporated, the Ohio Bell Telephone Company, Wisconsin Bell, Inc., and Southwestern Bell Communications Services, Inc., for Authorization to Provide In-Region, InterLATA Services in Illinois, Indiana, Ohio, and Wisconsin*, WC Docket No. 03-167, Memorandum Opinion and Order, 18 FCC Rcd 21543 (2003).

<sup>3</sup> 47 U.S.C. § 272(d).

Communications Inc. Report of Independent Accountants on Applying Agreed-Upon Procedures," was submitted by Ernst & Young LLP on December 18, 2003.

Section 272(d)(2) of the Communications Act requires that the results of the audit be made publicly available.<sup>4</sup> We now release the SBC audit report. In accordance with section 53.213(d) of the Commission's rules, interested parties may file comments on the report with the Commission within 60 days.<sup>5</sup> Accordingly, comments are due no later than **March 26, 2004**.

## EX PARTE PRESENTATIONS

We find that it would be in the public interest to treat this proceeding as an exempt proceeding under the ex parte rules.<sup>6</sup> Therefore, subsequent to the release of this Public Notice, ex parte communications to or from Commission decision-making personnel are permissible and need not be disclosed, in accordance with section 1.1204(b) of the Commission's Rules.<sup>7</sup>

## FILING PROCEDURES

Interested parties may file comments on the biennial audit report using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.<sup>9</sup> Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address.>" A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., CY-B402, Washington, D.C. 20554.

Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Ernestine Creech, Room 3-A247, Investigations and Hearings Division, Enforcement Bureau, 445 12th Street, S.W., Washington, D.C. 20554. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Word or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number, in this case EB Docket No. 03-199), type of pleading (comments), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy - Not an

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<sup>4</sup> 47 U.S.C. § 272(d)(2).

<sup>5</sup> 47 C.F.R. § 53.213(d).

<sup>6</sup> See 47 C.F.R. §§ 1.1200(a), 1.1204.

<sup>7</sup> 47 C.F.R. § 1.1204(b).

<sup>9</sup> See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24,121 (1998).

Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12<sup>th</sup> Street, S.W., Room CY-B402, Washington, D.C. 20554.

All filings must contain the docket or rulemaking number that appears in the caption of this proceeding. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. The filing hours at this location are 8 am. to 5:30 p.m. First-class U.S. Postal Service mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554. All filings must contain the Docket Number, and must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

In accordance with the Commission's earlier Public Notice announcing that hand-delivered or messenger-delivered filings are no longer accepted at the Commission's headquarters, **hand-delivered or messenger-delivered filings must be delivered to 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002.**<sup>10</sup>

Filings and comments are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C., 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C., 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

<b>If you are sending this type of document or using this delivery method...</b>	It should be addressed for delivery to...
Hand-delivered or messenger-delivered paper filings for the Commission's Secretary	236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002 (8:00 a.m. to 7:00 p.m.)
Commercial overnight mail (other than United States Postal Service Express Mail and Priority Mail)	9300 East Hampton Drive, Capitol Heights, MD 20743 (8:00 a.m. to 5:30 p.m.)
United States Postal Service first-class mail, Express Mail, and Priority Mail	445 12 <sup>th</sup> Street, S.W. Washington, D.C. 20554

<sup>10</sup> See Public Notice, "FCC Announces New Filing Location for Paper Documents," DA 01-2919 (rel. December 14, 2001).

Parties are strongly encouraged to file comments electronically using the Commission's Electronic Comment Filing System (ECFS).

Copies of the SBC 272(d) biennial audit report and any subsequently filed documents in this matter may be obtained from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C., 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

Electronic versions of the SBC 272(d) biennial audit report are also available on the FCC's Internet Home Page (<http://www.fcc.gov>) and through the Commission's Electronic Comment Filing System. To the extent that parties file electronic versions of comments, such filings also will be available on the FCC's Internet Home Page and through the Commission's Electronic Comment Filing System. Copies of the audit report and documents are also available for public inspection and copying during normal reference room hours at the Commission's Reference Center, 445 12th Street, S.W., CY-A257, Washington, D.C. 20554.

For further information, contact Cathy Carpino at (202) 418-1593 or Mika Savir at (202) 418-0384.

Action by the Chief, Enforcement Bureau